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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO DIVISION

**UNWIRED PLANET LLC, a Nevada limited
liability company**

Plaintiff,

vs.

SQUARE, INC., a Delaware corporation

Defendant.

CASE NO. 3:13-CV-00579-RCJ-WGC

**DECLARATION OF THEODORE J.
ANGELIS IN SUPPORT OF DEFENDANT
SQUARE, INC.'S MOTION TO TRANSFER**

1 I, Theodore J. Angelis, declare as follows:

2 1. I am an attorney at the law firm of K&L Gates LLP. I am counsel for Defendant
3 Square, Inc. ("Square") in the above-captioned matter. Unless otherwise stated, the matters contained
4 in this declaration are of my own personal knowledge and, if called as a witness, I could and would
5 testify to them.

6 2. I have visited Unwired Planet's website, at <unwiredplanet.com>, and reviewed the
7 content of that website. I also asked the computer forensics specialists at my law firm to capture a
8 copy of the website. In this declaration, I provide relevant excerpts of the website as exhibits.

9 3. A true and correct copy of the home page of Unwired Planet's website is attached
10 hereto as Exhibit A.

11 4. On the homepage, under the heading "Valuable Technology," Unwired Planet states
12 that it "established many of the foundational patents that allow mobile devices to connect to the
13 Internet." Unwired Planet invites users to click on a prominent "Learn More" icon, which takes the
14 user to a webpage on which there is a link to Unwired Planet's list of more than 2,400 patents and
15 patent applications. The "Technology" tab on the top of the homepage also leads to the same
16 webpage, on which there is a link to Unwired Planet's list of more than 2,400 patents and patent
17 applications. On that same page (and on its homepage), Unwired Planet describes "The Business of
18 Intellectual Property," and it explains that it is "pursuing a multi-pronged patent monetization
19 strategy, which ranges from direct licensing of its patents, litigation, and partnering with an
20 Intellectual Property specialist." In addition, on the homepage, there is a link to an article by Alan
21 Minsk in which he elaborates on the homepage's statement that Unwired Planet's "Patents
22 Themselves Are Products." A true and correct copy of that webpage, along with Minsk's article, is
23 attached hereto as Exhibit B. A true and correct copy of Unwired Planet's list of patents and patent
24 applications from Unwired Planet's website is attached hereto as Exhibit C.

25 5. On its website, Unwired Planet maintains various press releases that refer to its patent
26 litigation enforcement actions. One of those press releases, dated September 20, 2012, announces
27 Unwired Planet "filed patent infringement complaints against Apple Inc. and Google Inc. in the U.S.
28

1 District Court for the District of Nevada.” A true and correct copy of that press release is attached
2 hereto as Exhibit D.

3 6. Another press release on Unwired Planet’s website, dated October 21, 2013,
4 announces the filing of this case. A true and correct copy of that press release is attached hereto as
5 Exhibit E.

6 7. A true and correct copy of the terms and conditions posted on Unwired Planet’s
7 website as of November 21, 2013 is attached hereto as Exhibit F.

8 8. On its webpage, Unwired Planet also has a “blog” that contains information related to
9 its patent infringement actions. The blog contains summaries of the litigation, and it includes, among
10 other things, copies of (and descriptions of) this Court’s orders in *Unwired Planet LLC v. Apple, Inc.*,
11 No. 3:12-cv-00505-RCJ-VPC (D. Nev.) (“Apple Action”) and *Unwired Planet LLC v. Google Inc.*,
12 No. 3:12-cv-00504-LRH-VPC (D. Nev.) (“Google Action”). One of the blog posts, from September
13 3, 2013, comments on this Court’s transfer order in the Apple Action. A true and correct copy of the
14 blog posts regarding the Apple Action, Google Action, and this Court’s orders in those actions,
15 including this Court’s order transferring the Apple Action to the Northern District of California, are
16 attached hereto as Exhibit G.

17 9. I have accessed and reviewed the docket in the Apple Action. Based on my review of
18 that docket, I understand that Apple filed a motion to transfer the Apple Action to the Northern
19 District of California. I have reviewed that motion along with the supporting declarations and
20 exhibits, which reflect that Apple is headquartered in Cupertino, California, which is in the Northern
21 District of California, and the witnesses and evidence relevant to that action are located in the
22 Northern District of California. A true and correct copy of the Declaration of Mark Buckley filed in
23 support of Apple’s motion to transfer the Apple Action to the Northern District of California is
24 attached hereto as Exhibit H. A true and correct copy of this Court’s Order transferring the Apple
25 Action to the Northern District of California is attached hereto as Exhibit I.

26 10. I have accessed and reviewed the docket in the Apple Action after this Court
27 transferred it to the Northern District of California. A true and correct copy of the docket in the
28

1 Apple Action, Northern District of California Case Number 4:13-cv-04134-YGR is attached hereto as
2 Exhibit J.

3 11. I have accessed and reviewed the docket in the Google Action. Based on my review
4 of that docket, I understand that Google filed a motion to transfer the Google Action to the Northern
5 District of California. I have reviewed that motion along with the supporting declarations and
6 exhibits, which reflect that Google is headquartered in Mountain View, California, which is in the
7 Northern District of California, and the witnesses and evidence relevant to that action are located in
8 the Northern District of California. I understand that Google filed a motion for reconsideration of
9 that order. A true and correct copy of the Declaration of Abeer Dubey filed in support of Google's
10 motion to transfer the Google Action to the Northern District of California is attached hereto as
11 Exhibit K.

12 12. I have conducted Internet research regarding Openwave Systems, Inc. ("Openwave")
13 and its related companies. Those companies have been discussed at length in prior declarations
14 submitted to this Court, and as a result, I collected documents previously submitted to the Court as
15 the validity and accuracy of those documents appears not to have been questioned by Unwired Planet.
16 Based on the previously submitted documents, I understand that Openwave's headquarters were
17 located in Redwood City, California. Attached hereto as Exhibit L is a true and correct copy of
18 Openwave Systems Inc.'s About Us webpage from June 12, 2013, stating that its headquarters were
19 located in Redwood City, California. I understand that Openwave Systems Inc. merged into Unwired
20 Planet, Inc. in April 2012, at which point it spun off all of its non-patent assets and operations. A true
21 and correct copy of the Certificate of Ownership and Merger is attached hereto as Exhibit M. I
22 further understand that Unwired Planet Inc. was located in Redwood City, California until at least
23 September 19, 2013, when it announced its move to Reno, Nevada. Attached hereto as Exhibit N is a
24 true and correct copy of the September 19, 2013 press release from Unwired Planet announcing its
25 move and a copy of the information from the California Secretary of State showing that, as of
26 January 21, 2013, Unwired Planet was listed as having an address in Redwood City, California. I
27 also understand that certain companies spun off of Openwave (now Unwired Planet Inc.). One of
28 those companies is Openwave Messaging, Inc., which is based in Redwood City, California.

1 Attached hereto as Exhibit O is a true and correct copy of information from the California Secretary
2 of State showing that, as of January 21, 2013, Openwave Message, Inc. listed an address in Redwood
3 City, California. Another such company was Openwave Mobile, Inc. Attached hereto as Exhibit P is
4 a true and correct copy of information from the California Secretary of State showing that, as of
5 January 21, 2013, Openwave Mobility, Inc. listed an address in Redwood City, California.

6 13. I have conducted Internet research regarding the location of Unwired Planet's co-
7 General Manager of IP, Daniel Mendez. According to my research, Mendez currently owns property
8 in Atherton, California, which is located at 76 Lilac Drive in the Northern District of California. A
9 true and correct copy of the real estate listing for Mendez's house in Atherton, California is attached
10 hereto as Exhibit Q. Based on Unwired Planet's website and my Internet research, Michael C.
11 Mulica is a member of Unwired Planet's board of directors and its former president and chief
12 executive officer. Based on my Internet research, Mulica appears to reside in, own property in,
13 and/or otherwise maintain strong ties to the San Francisco Bay Area.

14 14. I have conducted Internet research regarding the location of Unwired Planet's co-
15 General Manager of IP, Tim Robbins. According to my research, Robbins lives in and owns property
16 in Menlo Park, California. A true and correct copy of Robbins' Linked In profile showing his Menlo
17 Park address and property ownership information is attached hereto as Exhibit R.

18 15. A true and correct copy of an article entitled "Senate Logjam on Judicial
19 Confirmations Creates Judge Shortage in Nevada" dated February 18, 2013 that in the *Las Vegas Sun*
20 is attached hereto as Exhibit S. I have conducted Internet research and have learned that there is still
21 a vacancy on the Nevada District Court.

22 16. A true and correct copy of an article entitled *Judicial Emergency Declared on Federal*
23 *Bench in Nevada*, by Carri Geer Theveno dated March 5, 2012 in the *Las Vegas Review Journal* is
24 attached hereto as Exhibit T.

25 17. A true and correct copy of the Federal Judicial Caseload Statistics showing the median
26 time from filing to disposition for the twelve month period ending March 31, 2013 is attached hereto
27 as Exhibit U.

1 18. I have conducted Internet research regarding the current location of the three named
2 inventors of U.S. Patent Nos. 7,711,100 (“the ‘100 Patent”), 7,376,433 (“the ‘433 Patent”), and
3 8,275,359 (“the ‘359 Patent”) (collectively, the “Asserted Patents”).

4 19. Based on my research, it appears that Charles L. Dennis, the named inventor of the
5 ‘100 Patent, is currently located in Woodinville, Washington.

6 20. Based on my research, it appears that David Hose, the named inventor on the ‘433
7 Patent, is currently located in Boulder, Colorado.

8 21. Based on my research, it appears that Mark Drennan, the named inventor of the ‘359
9 Patent, is currently located in Orlando, Florida.

10 22. During prosecution of the patent applications that ultimately led to two of the three
11 patents at issue in this case—the ‘359 Patent and the ‘100 Patent—Openwave asserted that its
12 invention occurred prior to the filing date of the respective applications in order to overcome prior
13 art. True and correct copies of relevant portions from the prosecution histories are attached hereto as
14 Exhibit V. At trial, Square will present evidence it develops that undercuts Openwave’s assertions
15 regarding the relevant conception dates.

16 23. On December 17, 2013, I contacted Martin McKendry, who I understand was formerly
17 Senior Vice President of Engineering at Openwave from 2008 to 2011 and now lives in San Carlos,
18 California. I spoke with McKendry on December 18, 2013. During our conversation, McKendry
19 explained that while at Openwave he supervised 300 engineers in California, Denver, Boston,
20 Ireland, and India, and he had responsibility, for example, for instructing the engineers about the
21 \$1,000 bounty Openwave paid for inventions that became patents. He also explained that Cordeiro
22 managed the patent prosecution process. In a follow-up communication, McKendry noted that he
23 had followed developments in Unwired Planet’s litigation by reviewing the blog at
24 <unwiredplanet.com>. He also reported that when he was with Openwave, it had no presence in
25 Nevada. He mentioned that all of Openwave’s local operations were in Redwood City, California.
26 McKendry indicated that he would not commit to traveling voluntarily to the District of Nevada to
27 testify at trial in this action at Square’s request. He said that he “can’t see why [he] would.”
28

1 24. On December 17, 2013, I contacted Karen Willem, who I understand was Chief
2 Financial Officer for Openwave from 2008 to 2010. Willem's area code and Linked In profile
3 indicate that she works in the San Francisco Bay Area. I left a voicemail for Willem at her office
4 with iPass Inc. I contacted Willem again on December 19, 2013. Willem returned my call, and we
5 talked about her role as CFO at Openwave. Willem confirmed that she will not voluntarily travel to
6 Reno to testify at trial at Square's request. As she said, "I'm not going to commit to go to Reno."

7 25. On December 17, 2013, I spoke with Bruce Posey, who I understand was formerly
8 General Counsel at Openwave from 2009 to 2010 and currently works at Qualys in the San Francisco
9 Bay Area. Posey explained that he supervised the work of David Cordeiro, who managed patent
10 prosecution and licensing during the time Posey served as General Counsel. (Posey did not
11 personally manage those tasks). During our conversation, Posey indicated that he would not commit
12 to traveling voluntarily to the District of Nevada to testify at trial in this action. As he said, "If I had
13 a choice, I would love not to have to go to Reno."

14 26. On December 17, 2013, I contacted David Cordeiro, who I understand was Chief IP
15 Counsel for Openwave from 2009 to 2011, and who Posey mentioned as managing the patent
16 prosecution and licensing process. Cordeiro's phone number, address on file with the California
17 State Bar Association, and his Linked In profile all indicate that he works and resides in the San
18 Francisco Bay Area. I left a message for Cordeiro at the phone number he provided to the State Bar
19 of California. I also sent an email to the email address he provided to the State Bar of California. I
20 attempted to contact Cordeiro again on December 19, 2013 at 10:10 a.m. by email. Counsel for
21 Unwired Planet, Brett Shuman, sent me an email at 11:38 a.m. on December 19, 2013 informing me
22 that his firm (Morgan, Lewis & Bockius LLP) is representing Cordeiro and asked that we refrain
23 from contacting him regarding this action. I sent an email to Shuman at 11:44 a.m. on December 19,
24 2013 confirming that we will halt all efforts to contact Cordeiro. A true and correct copy of those
25 series of emails is attached hereto as Exhibit W.

26 27. On December 17, 2013, I contacted Greg Wrenn, who I understand was formerly
27 General Counsel at Openwave from 2004 to 2006 and now works in the San Francisco Bay Area for
28 Support.com. I also understand that Mr. Wrenn signed a statement of assignee and power of attorney

1 on behalf of Openwave, during the prosecution of the '100 Patent. During our conversation, Wrenn
2 described his role in supervising general technology licensing as part of deals Openwave entered into
3 with parties in the telecommunications space. He explained his role in supervising the work of Alan
4 Minsk, who managed patent prosecution and licensing during the time Wrenn served as General
5 Counsel. (Wrenn did not personally manage those tasks). Wrenn indicated that he was not willing to
6 commit to traveling voluntarily to the District of Nevada to testify at trial in this action at Square's
7 request. In particular, he said, he "would prefer" to be deposed in the Bay Area and that Reno was
8 not as convenient as other places for his deposition or trial testimony.

9 28. On December 17, 2013, I contacted Jeff Li who I understand was General Counsel of
10 Openwave from 2005 to 2008. The information Li provided to the California State Bar Association
11 and his Linked In profile indicate that he works in the San Francisco Bay Area. I left Li a voicemail
12 message at his office at Agilent Technologies. I did not receive a response. After subsequently
13 receiving an email from Brett Schuman, counsel for Unwired Planet, requesting that I not attempt to
14 contact any former General Counsel, I ceased my efforts to reach Li. Mr. Li subsequently contacted
15 me on December 20, and he indicated that a one-day trip to Reno would not be "that big a deal for
16 me." Li did not, however, commit to traveling voluntarily to the District of Nevada to testify at trial
17 in this matter at Square's request.

18 29. On December 17, 2013, I contacted Henry R. "Hank" Nothhaft, who I understand was
19 formerly a member of Openwave's board of directors from 2011 to 2013 and has extensive
20 knowledge of patent licensing issues. Nothhaft's area code and Linked In profile indicate that he
21 lives in the San Francisco Bay Area. I left a message for Nothhaft, which Nothhaft returned during
22 the morning of December 18. I left another message for Nothhaft during the evening of December
23 18. I did not hear a response, so I left another message for Nothhaft on December 19, 2013 at about
24 2:30 p.m., in which I once again explained that I would like to talk to him about whether he would
25 commit to travel to traveling voluntarily to the District of Nevada to testify at trial in this matter at
26 Square's request. Nothhaft responded by voicemail, and he told me he was "certainly not willing to
27 testify" for any party in the case, and he was "certainly unwilling to travel to Nevada under any
28 circumstances."

1 30. On December 17, 2013, I contacted Jerry Held, who I understand was formerly a
2 member of Openwave's board of directors from May 2005 to November 2012. The information on
3 Held's Linked In profile indicates that he works in the San Francisco Bay Area. I contacted Held
4 through the website for his personal consulting company, Held Consulting, LLC. I received
5 confirmation that my email was delivered, but I have not received a response from Held. I attempted
6 to contact Held again by email on December 19, 2013. I did not receive a response. I therefore have
7 concluded it is unlikely that Held will commit to traveling voluntarily to the District of Nevada to
8 testify at trial in this matter at Square's request.

9 31. On December 17, 2013, I contacted Mohan Sadashiva, who I understand was Chief
10 Product Strategist for Openwave from 1999 to 2004. Sadashiva's area code and his Linked In profile
11 indicate that he works in the San Francisco Bay Area. I left a voicemail for Sadashiva at his office
12 with Narus, Inc. I did not receive a response. I attempted to contact Sadashiva again on December
13 19, 2013. I once again left a message but did not receive a response. I therefore have concluded it is
14 unlikely that Sadashiva will commit to traveling voluntarily to the District of Nevada to testify at trial
15 in this matter at Square's request.

16 32. On December 17, 2013, I contacted Alan Black, who I understand was Chief Financial
17 Officer for Openwave from 1997-2003. Black's area code and Linked In profile indicate that he
18 works in the San Francisco Bay Area. I left a voicemail for Black at his office with Zendesk, Inc. I
19 have not received a response. I attempted to contact Black again on December 19, 2013. I once
20 again left a message but did not receive a response. I therefore have concluded it is unlikely that
21 Black will commit to traveling voluntarily to the District of Nevada to testify at trial in this matter at
22 Square's request.

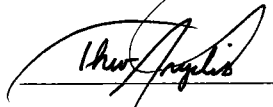
23 33. Based on my research of Openwave and potential witnesses relevant to this matter,
24 Sean MacNeil and Alan Minsk may be potential witness. Sean MacNeil was the Vice President of
25 Global Services and Support at Openwave and appears to reside in the Los Angeles area. MacNeil
26 signed a statement of assignee, which was filed with the USPTO during the prosecution of the '100
27 Patent. Alan Minsk was Director and Patent Counsel at Openwave from 1999 to 2006, was involved
28

1 in the prosecuted the '100 Patent and '433 Patent, and it appears that Minsk is currently located in the
2 Seattle, Washington area.

3 34. On December 18, 2013, I received an email from Brett Schulman, counsel for
4 Unwired Planet. I responded that same day. Schulman responded to me on December 19, 2013. A
5 true and correct copy of email those emails is attached hereto as Exhibit X.

6 I declare under penalty of perjury under the laws of Washington and the United States of
7 America that the foregoing is true and correct.

8 EXECUTED this 20th day of December, 2013, at Seattle, Washington

9 
10 _____
11 Theodore J. Angelis